



## Declaration for Patent Application

Docket Number: 1763.0140000

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed and for which a patent is sought on the invention entitled: **System, Method and Computer Program Product to Maximize Server Throughput While Avoiding Server Overload by Controlling the Rate of Establishing Server-Side Network Connections**,

the specification of which is attached hereto unless the following box is checked:

was filed on July 26, 2001;  
as United States Application Number or PCT International Application Number 09/912,401; and  
was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56, including for continuation-in-part applications, material information that became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application, which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)	Priority Claimed
(Application No.)	(Country) (Day/Month/Year Filed) <input type="checkbox"/> Yes <input type="checkbox"/> No
(Application No.)	(Country) (Day/Month/Year Filed) <input type="checkbox"/> Yes <input type="checkbox"/> No

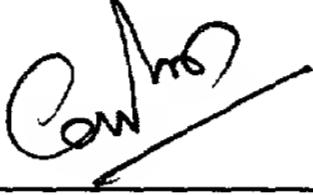
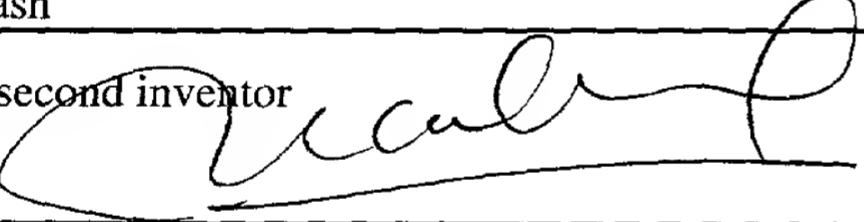
Send Correspondence to:

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
1100 New York Avenue, N.W.  
Suite 600  
Washington, D.C. 20005-3934

Direct Telephone Calls to:

(202) 371-2600

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor		
Jose Kolencheril Raphel		
Signature of sole or first inventor		Date
10/17/01		
Residence		
San Jose, California		
Citizenship		
Indian		
Mailing Address		
345 Kiely Boulevard, Apt. #C103		
San Jose, California 95129		
Full name of second inventor		
Kailash Kailash		
Signature of second inventor		Date
oct 17 2001		
Residence		
San Jose, California		
Citizenship		
Indian		
Mailing Address		
165 Park Ellen Drive		
San Jose, California 95136		

Full name of third inventor

Michel K. Susai

Signature of third inventor



Date

10-27-01

Residence

San Jose, California

Citizenship

Indian

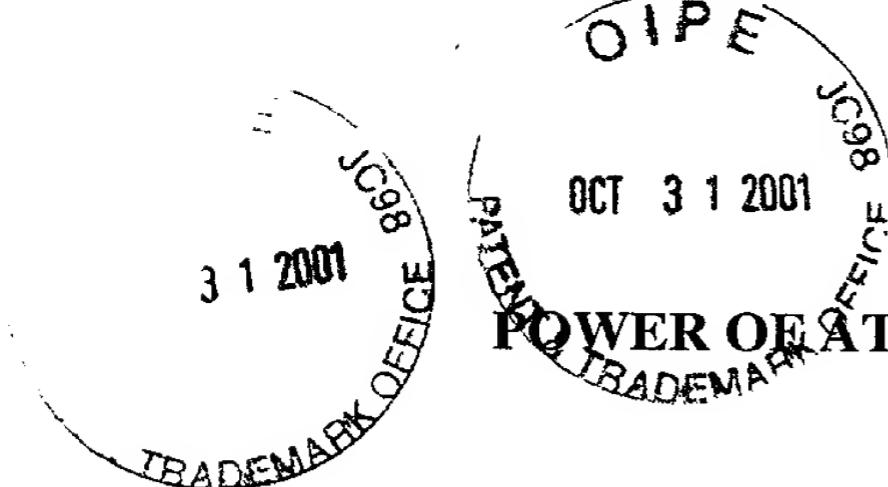
Mailing Address

2922 Meadowlands Lane

San Jose, California 95135

(Supply similar information and signature for subsequent joint inventors, if any)

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SKGF Rev. 5/16/01 mac



## POWER OF ATTORNEY FROM ASSIGNEE

NetScaler, Inc., a corporation of Delaware, having a principal place of business at 2880 San Tomas Expressway, Second Floor, Santa Clara, California 95051, is assignee of the entire right, title and interest for the United States of America (as defined in 35 U.S.C. § 100), by reason of an Assignment to the Assignee executed on (1) 10-17-01, (2) 10-17-01 and (3) 10-17-01 of an invention known as System, Method and Computer Program Product to Maximize Server Throughput While Avoiding Server Overload by Controlling the Rate of Establishing Server-Side Network Connections (Attorney Docket No. 1763.0140000), which is disclosed and claimed in a patent application of the same title by the inventors (1) Jose Kolencheril Raphel, (2) Kailash Kailash and (3) Michel K. Susai (said application filed on July 26, 2001 at the U.S. Patent and Trademark Office, having Application Number 09/912,401).

The Assignee hereby appoint the U.S. attorneys associated with **CUSTOMER NUMBER 28393** to prosecute this application and any continuation, divisional, continuation-in-part, or reissue application thereof, and to transact all business in the U.S. Patent and Trademark Office connected therewith, such attorneys currently being: Robert Greene Sterne, Esq., Reg. No. 28,912; Edward J. Kessler, Esq., Reg. No. 25,688; Jorge A. Goldstein, Esq., Reg. No. 29,021; David K.S. Cornwell, Esq., Reg. No. 31,944; Robert W. Esmond, Esq., Reg. No. 32,893; Tracy-Gene G. Durkin, Esq., Reg. No. 32,831; Michele A. Cimbala, Esq., Reg. No. 33,851; Michael B. Ray, Esq., Reg. No. 33,997; Robert E. Sokohl, Esq., Reg. No. 36,013; Eric K. Steffe, Esq., Reg. No. 36,688; Michael Q. Lee, Esq., Reg. No. 35,239; Steven R. Ludwig, Esq., Reg. No. 36,203; John M. Covert, Esq., Reg. No. 38,759; and Linda E. Alcorn, Esq., Reg. No. 39,588. The Assignee hereby grants said attorneys the power to insert on this Power of Attorney any further identification that may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office.

Send correspondence to:

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
1100 New York Avenue, N.W.  
Suite 600  
Washington, D.C. 20005-3934  
U.S.A.

Direct phone calls to 202-371-2600.

FOR: NetScaler, Inc.

SIGNATURE: 

BY: B. V. Jagadeesh

TITLE: President and CEO

DATE: October 18, 2001



## ASSIGNMENT

In consideration of the sum of One Dollar (\$1.00) or equivalent and other good and valuable consideration paid to each of the undersigned inventors: (1) Jose Kolencheril Raphel, (2) Kailash Kailash, and (3) Michel K. Susai, the undersigned inventors hereby sell and assign to NetScaler, Inc. (the Assignee) his/her entire right, title and interest, including the right to sue for past infringement and to collect for all past, present and future damages:

*check applicable box(es)*  for the United States of America (as defined in 35 U.S.C. § 100),  
 and throughout the world,

(a) in the invention(s) known as System, Method and Computer Program Product to Maximize Server Throughput While Avoiding Server Overload by Controlling the Rate of Establishing Server-Side Network Connections for which application(s) for patent in the United States of America has (have) been executed by the undersigned on (1) 17-045-01, (2) 17-045-01 and (3) 17-045-01 known as United States Application No. 09/912,401, filed July 26, 2001), in any and all applications thereon, in any and all Letters Patent(s) therefor, and

(b) in any and all applications that claim the benefit of the patent application listed above in part (a), including continuing applications, reissues, extensions, renewals and reexaminations of the patent application or Letters Patent therefor listed above in part (a), to the full extent of the term or terms for which Letters Patents issue, and

(c) in any and all inventions described in the patent application listed above in part (a), and in any and all forms of intellectual and industrial property protection derivable from such patent application, and that are derivable from any and all continuing applications, reissues, extensions, renewals and reexaminations of such patent application, including, without limitation, patents, applications, utility models, inventor's certificates, and designs together with the right to file applications therefor; and including the right to claim the same priority rights from any previously filed applications under the International Agreement for the Protection of Industrial Property, or any other international agreement, or the domestic laws of the country in which any such application is filed, as may be applicable;

all such rights, title and interest to be held and enjoyed by the above-named Assignee, its successors, legal representatives and assigns to the same extent as all such rights, title and interest would have been held and enjoyed by the Assignor had this assignment and sale not been made.

The undersigned inventor(s) agree(s) to execute all papers necessary in connection with the application(s) and any continuing (continuation, divisional, or continuation-in-part), reissue, reexamination or corresponding application(s) thereof and also to execute separate assignments in connection with such application(s) as the Assignee may deem necessary or expedient.

The undersigned inventor(s) agree(s) to execute all papers necessary in connection with any interference or patent enforcement action (judicial or otherwise) related to the application(s) or any continuing (continuation, divisional, or continuation-in-part), reissue or reexamination application(s) thereof and to cooperate with the Assignee in every way possible in obtaining evidence and going forward with such interference or patent enforcement action.

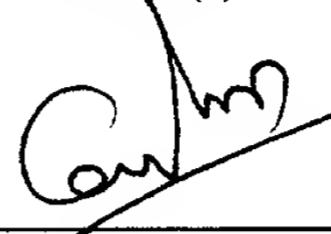
The undersigned inventor(s) hereby represent(s) that he/she has full right to convey the entire interest herein assigned, and that he/she has not executed, and will not execute, any agreement in conflict therewith.

The undersigned inventor(s) hereby grant(s) Robert Greene Sterne, Esquire, Registration No. 28,912; Edward J. Kessler, Esquire, Registration No. 25,688; Jorge A. Goldstein, Esquire, Registration No. 29,021; David K.S. Cornwell, Esquire, Registration No. 31,944; Robert W. Esmond, Esquire, Registration No. 32,893; Tracy-Gene G. Durkin, Esquire, Registration No. 32,831; Michele A. Cimbala, Esquire, Registration No. 33,851; Michael B. Ray, Esquire, Registration No. 33,997; Robert E. Sokohl, Esquire, Registration No. 36,013; Eric K. Steffe, Esquire, Registration No. 36,688; Michael Q. Lee, Esquire, Registration No. 35,239; Steven R. Ludwig, Esquire,

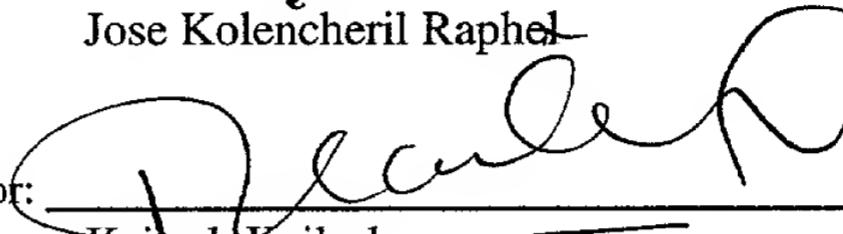
Registration No. 36,203; John M. Covert, Esquire, Registration No. 38,759; and Linda E. Alcorn, Esquire, Registration No. 39,588; all of STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C., 1100 New York Avenue, N.W., Suite 600, Washington, D.C. 20005-3934, power to insert in this assignment any further identification that may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

IN WITNESS WHEREOF, executed by the undersigned inventor(s) on the date opposite his/her name.

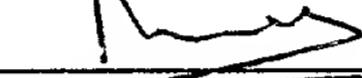
Date: 10/17/01

Signature of Inventor:   
Jose Kolencheril Raphael

Date: Oct 17, 2001

Signature of Inventor:   
Kailash Kailash

Date: 10 - 07 - 01

Signature of Inventor:   
Michel K. Susai

015.PTO